



**REPUBLIC OF THE PHILIPPINES**

*Sandiganbayan*

**Quezon City**

***Seventh Division***

***MINUTES of the proceedings held on September 11, 2019***

***Present:***

***Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA—Chairperson***

***Justice ZALDY V. TRESPESSES —————Member***

***Justice GEORGINA D. HIDALGO —————Member***

The following resolution was adopted:

***Civil Case No. SB-11-CVL-0002 – Republic of the Philippines vs. Danilo Mangila y Payumo***

This resolves the following:

1. Respondent Danilo P. Mangila's "MOTION FOR RECONSIDERATION" dated July 29, 2019<sup>1</sup>; and
2. Petitioner's "OPPOSITION" dated August 27, 2019<sup>2</sup>.

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**HIDALGO, J.**

Submitted for resolution are:

1. Motion for Reconsideration (Motion) filed by respondent Danilo P. Mangila (respondent Mangila); and,
2. Opposition filed by Petitioner, Republic of the Philippines (Petitioner)

In his Motion, respondent Mangila summarized his arguments as follows:

1. This Court seriously erred in finding that the real properties which he declared in his SALN from 1998 to 2003 were unlawfully acquired;
2. This Court committed grave abuse of discretion amounting to lack or excess of jurisdiction in assuming that respondent Mangila's

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<sup>1</sup> Record, vol.4, pp. 127 to 138

<sup>2</sup> Record, Vol. 4, pp. 147 to 152

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travels itemized under Family Expenditures were unlawful and hence, the amount of P 2, 221,880.65 was wrongfully included in the forfeiture despite the absence of factual and legal basis therefor;

3. This Court committed a reversible error in declaring as ill-gotten the motor vehicles registered under respondent Mangila's name without considering the same as part of his transportation business and buy-and-sell business; and,
4. This Court gravely erred in not declaring that the Petition has prescribed.

**Specific arguments offered by respondent Mangila in support of the present Motion.**

Respondent Mangila reasoned out that he lawfully acquired the declared real properties when the Fourth Division of this Court acquitted him in the Perjury cases. He added that when he declared the same in his Statement of Assets, Liabilities and Net Worth (SALN), he in effect, had sufficiently explained that he acquired those properties thru lawful means.

With respect to real properties covered by the Transfer Certificates of Titles No. (TCT) No. 202996 (Lagro, Fairview Quezon City), TCT No. 248594 (Lagro, Fairview, Quezon City, extension), he explained that real properties covered by these TCTs are part of his ancestral / family home. He further clarified that he acquired the real property covered by TCT No. 202996 in 1978 through a loan from the Government Service Insurance System (GSIS). Since it was acquired through a loan, the same was transferred only to him in 1998 when he was able to fully pay the loan.

He argued that since these properties covered by their respective titles form part of his family home, these properties are exempted from levy, attachment and execution under the provision of the Family Code of the Philippines. The same is true with respect to a real property covered by TCT No. 275686, since it is where they presently reside not to mention that this was purchased from contributions with his wife and children who are gainfully employed in the United States.

Anent the real property covered by TCT No. 355409 situated at Calamba, Laguna, he likewise argued that it was only in 1996 that the title of the property was issued, or after he and his family contributed funds to pay it in installment. He insisted that as between family members, it is expected that they will not execute any contract or any document evidencing their contributions. He offered the same explanation with respect to the real property situated at Trece Martirez, Cavite covered by TCT No. 47374. However, with respect to the real property situated at Calapan, [Oriental]

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Mindoro, he reasoned out that he paid it on cash in the amount of ₱ 50,000.00 in 1992 sourced from his income as police officer and from his business interest in the buy-and-sell of motor vehicles.

Respondent Mangila likewise disputed the findings of this Court with respect to his travels. He explained that, at the time these travels were made, his wife and children were gainfully employed. He tried to convince this Court that, his family, relatives and friends who are abroad financed the travels. Similarly, he disputed that the amount of ₱ 2,221,880.65 (total amount of travel expenses as found by this Court) has no factual basis since the prosecution has no accurate proof on how it came up with this amount not to mention that it was his family, relatives and friends abroad who purchased travel tickets using Air Miles.

He too, questioned the findings of this Court regarding the motor vehicles found to be ill- gotten.

Specifically, he explained that the seven (7) Toyota Corolla vehicles were used in his taxi business - the Nine-o-Nine Transport Services. He said that he registered these vehicles in his name because the transport business could not be registered without the vehicles being registered under his name. With respect to the other motor vehicles namely, the Starex Van, 2001 Toyota RAV 4, Toyota Hi-Ace Van, Honda and the Harley Davidson motorcycle, he asserted that these vehicles were all part of his buy-and-sell business with his associates namely, David Tan who extended him a credit line and Nilo Pascoguin. He explained that his associates even allowed him to use their showroom. He further claimed that these vehicles were already sold to buyers but for one reason or another, the buyers did not transfer them to their names.

Lastly, he brought out the idea that the present case has prescribed because he retired from service in June 2006 and the Petition for Forfeiture was only filed in May 2011, a clear violation of paragraph 2, Section 2 of Republic Act No. 1379.

His arguments taken all together, respondent Mangila seeks the reconsideration of the Decision dated July 1, 2019.

### **The Opposition to the Motion for Reconsideration**

In its **Opposition**, petitioner argued that respondent Mangila cannot invoke the “not guilty” judgment in perjury case in the present forfeiture case because the quantum of proof in the perjury case, which is a criminal case is different from the quantum of proof required in the present case, a civil case.

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More, petitioner begs to disagree to the the argument of respondent Mangila that the real properties covered by TCT No. 202996, 248594 and 275686 are family homes, hence, exempt from execution. True or not, respondent Mangila failed to adduce evidence showing that the forfeited properties are part of the family homes. Petitioner likewise espoused the same argument with respect to real properties covered by TCT Numbers 355409, 47374 and 86118, allegedly acquired by respondent Mangila through lawful means. The very same argument was used relative to respondent Mangila's and his familys' travel expenses.

Petitioner also insisted that respondent Mangila failed to substantiate his claim that the motor vehicles were already conveyed to other persons and therefore, are not his anymore.

As to the argument that the present case is barred by prescription, petitioner hinged on the fact that while respondent Mangila retired from the Philippine National Police, he remained in the government service as Assistant Secretary [of the] Presidential Anti-Smuggling Group of the Office of the President which he held from October 30, 2007 until 2010. This being so, the filing of the present case on August 1, 2011, is well within the prescriptive period provided by law.

After this Court heard the arguments of both parties, the Motion and the Opposition thereto were submitted for resolution.

Hence, this resolution.

In light of the pertinent law and jurisprudence and also upon taking a second look at the arguments raised by respondent Mangila and the records of this case, still this Court sees no cogent reason to depart from its Decision dated July 1, 2019, for failure of respondent Mangila to substantiate his claim. Otherwise stated, the evidence he offered is not sufficient to back up his claim.

First, the mere declaration by respondent Mangila of the questioned properties in his SALN will not automatically mean that he acquired those properties through lawful means. Couched differently, the fact that he was acquitted in the perjury case does not mean that the properties declared in his SALN are lawfully acquired.

This Court does not lose sight of the fact that the charge hurdled upon respondent Mangila is that, he acquired the questioned properties manifestly out of proportion to his salary as such police officer and to his other lawful income. To reiterate, it is incumbent upon respondent Mangila to show proofs that that the financial resources he used to acquire the questioned

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properties are fruits of his legitimate toils.

Another point, for the criminal case of perjury to thrive under Article 183 of the Revised Penal Code, it requires the concurrence of four elements and these are: (a) statement or affidavit upon a material matter made under oath; (b) before a competent officer authorized to receive and administer such oath; (c) willful and deliberate assertion of a falsehood by the offender; and (d) that the sworn statement containing the falsity is required by law.<sup>3</sup>

On the other hand, for a successful prosecution of Violation of Republic Act 1379, the following elements must concur:

1. The offender is a public officer or employee;
2. He must have acquired a considerable amount of money or property during his incumbency; and,
3. Said amount is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property

Proceedings under RA 1379 are, to repeat, civil in nature while perjury on the other hand is criminal in nature. Corollary, one who is sued under RA 1379 may be proceeded against for a criminal offense.<sup>4</sup>

Thus, since there is a variance between the two cases filed against respondent Mangila, his acquittal in the perjury case cannot in any way affect the proceedings of the present case.

Moreover, while this Court agrees with some points raised by respondent Mangila specifically on the right to file the petition for civil forfeiture shall prescribe after four years from the date of resignation, dismissal or separation or expiration of the term of the officer or employee concerned, it was respondent Mangila himself who admitted that he served as Assistant Secretary of the Presidential Smuggling Group until 2010.<sup>5</sup> From this admission, what can be surmised is that, he is still considered as a government employee until 2010. Thus, the prescriptive period of four (4) years as mandated by RA 1379 is counted from 2010. It should be noted that, the petition was filed in May 2011, well within the prescriptive period required by law.

**Second**, this Court likewise does not agree with the contention of respondent Mangila that since the real properties covered by TCT Numbers

<sup>3</sup> People of the Philippines vs. Estanislao Estacio y Marcelo, GR No. L-18332, April 30, 1963

<sup>4</sup> Clarita D. Garcia vs. Republic of the Philippines, GR No. 170122, October 12, 2009

<sup>5</sup> Record, Vol. 3, p. 406

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202996, 248594 and 275686 are their family homes, and therefore as such, are exempted from levy, attachment and execution.

Indeed, the general rule is that the family home is a real right which is gratuitous, inalienable and free from attachment, constituted over the dwelling place and the land on which it is situated, which confers upon a particular family the right to enjoy such properties, which must remain with the person constituting it and his heirs. It cannot be seized by creditors except in certain special cases.<sup>6</sup> For the family home to be exempt from execution, distinction must be made as to what law applies based on when it was constituted and what requirements must be complied with by the judgment debtor or his successors claiming such privilege.

Hence, two sets of rules are applicable as laid down in the case of *Juanita Trinidad Ramos, et al. vs. Danilo Pangilinan, et al.*<sup>7</sup>

The first rule is that, if the family home was constructed before the effectivity of the Family Code or before August 3, 1988, then it must have been constituted either judicially or extra-judicially as provided under Articles 225, 229-231 and 233 of the Civil Code.

The second rule is that, for family homes constructed after the effectivity of the Family Code on August 3, 1988, there is no need to constitute extrajudicially or judicially, and the exemption is effective from the time it was constituted and lasts as long as any of its beneficiaries under Art. 154 actually resides therein. Moreover, the family home should belong to the absolute community or conjugal partnership, or if exclusively by one spouse, its constitution must have been with the consent of the other, and its value must not exceed certain amounts depending upon the area where it is located. Further, the debts incurred for which the exemption does not apply as provided under Art. 155 for which the family home is made answerable must have been incurred after August 3, 1988.

However, in both cases, whether under the Civil Code or the Family Code, it is not sufficient that the person claiming exemption merely alleges that such property is a family home. This claim for exemption must be set up and proved.<sup>8</sup>

During the hearing of this case, other than the bare testimony of respondent Mangila that the above-described properties are their family homes or constituted as such, he did not offer any proof to his claim.

<sup>6</sup> Josef v. Santos, G.R. No. 165060, November 27, 2008

<sup>7</sup> GR No. 185920, July 20, 2010

<sup>8</sup> Honrado v. Court of Appeals, G.R. No. 166333, November 25, 2005

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Notably, none from the documentary exhibits that he offered will show that the claims for exemption levy and attachment were set up and proved. Without any proof, the protective mantle of the law from levy, attachment and execution cannot be availed of by respondent Mangila.

As to other real properties namely, real property covered by TCT No. 355409, 47374 and 86118 situated at Laguna, Cavite and Oriental Mindoro, since the arguments raised by respondent Mangila in the present Motion were already passed upon by this Court in the questioned Decision, this Court maintains its findings as stated in the said Decision which has not, in his motion for reconsideration, successfully overcome with justifiable arguments.

**Third**, this Court also does not agree with the the explanation of respondent Mangila that some of his travel expenses were shouldered by his family, relative and friends abroad and sometime with the use of Air Miles.

A careful review of the record of the case will show that respondent Mangila failed to adduce evidence explaining where did he get the money to finance his multiple foreign travels. Thus this Court has no option but to apply the provision of "admission by silence" as stated under Section 32, Rule 130 of the Revised Rules on Evidence.

**Fourth**, this Court also does not consider the explanation of respondent Mangila to the effect that, his family, *i.e.* wife and children contributed to the purchase of the questioned properties and had in fact financed some of his foreign travels. To reiterate, no evidence was presented to show the respective financial capabilities of his family members. Neither his wife nor children were called to testify on the matter, nor respondent Mangila was able to present and offer documents to show the financial capabilities of his family members.

More, while respondent Mangila reiterated that his business associate Mr. David Tan extended him credit line while Nilo Pascoguin allowed the use of his vehicles from their showroom which were eventually offered for sale, still the Court is not persuaded.

To start with, it was only Mr. David Tan who was called to testify and respondent Mangila was not able to explain the seemingly contradictory testimony of Mr. David Tan that he only executed an Affidavit to show that he extended a loan to respondent Mangila only on November 21, 2011 when he learned that a case was filed against the latter and after the latter requested him to execute the said Affidavit.<sup>9</sup>

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<sup>9</sup> TSN dated February 14, 2018, pp. 29 to 30

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**Fifth**, respondent Mangila was not able to convince this Court through his arguments in the present Motion that the motor vehicles are not ill-gotten and the same were part of his then transportation business, and that these same motor vehicles were already sold to other persons such that, the said vehicles must not be included in the list of forfeited properties.

Sans proof, such as deed of conveyance that he executed in favor of another persons, what is clear is, these motor vehicles are still properties registered under his name and since they were not proven that he acquired the same through his lawful income and business interests, these motor vehicles should be declared forfeited in favor of the State.

**WHEREFORE**, finding the matters raised by respondent Danilo P. Mangila as mere rehash of his previous arguments, and there being no cogent reason to modify, much less, reverse our assailed Decision dated July 1, 2019, the instant Motion for Reconsideration dated July 29, 2019, is **DENIED FOR LACK OF MERIT.**

**SO ORDERED.**

  
**GEORGINA D. HIDALGO**  
Associate Justice

**WE CONCUR:**

  
**MA. THERESA DOLORES C. GOMEZ-ESTOESTA**  
Associate Justice  
Chairperson

  
**ZALBY V. TRESPESSES**  
Associate Justice